

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Weijing Chen et al.

Title: Public Wireless Local Area Network

App. No.: 09/932,842

Filed: 08/17/2001

Examiner: PEACHES, Randy

Group Art Unit: 2617

Auy. Dkt. No.: 7780/17 (T00343)

Confirmation No.: 4500

M/S APPEAL

The Board of Patent Appeal and Interferences

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REPLY BRIEF

Dear Commissioner:

Please consider the Appellants' Reply Brief as follows:

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being electronically or facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents on _____.

Laura H. Andre

Typed or Printed Name

Signature

CLAIM AMENDMENTS

In the Examiner's Answer, the Examiner continues to mistake the disclosures of the Lemieux reference and mistake the legal standards applicable to an anticipation rejection.

It is well settled that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the...claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Thus, to warrant the §102(e) rejection, the references cited by the Examiner must show each and every limitation of the claims *in as complete detail as claimed*.

However, Lemieux simply does not disclose that the devices are public telephones, as claimed in claims 1, 10, and 16. At most, Lemieux discloses:

Each of the distribution channels is terminated with a network termination (NT) node or module that is provided at a user's (or subscriber's) home, office, business, or any other facility. For example, three NT modules 226A-226C are shown in this FIG. Also, for purposes of this illustration, the NT module 226A is provided at a subscriber's facility 228 which includes three devices, D1 (reference numeral 230A), D2 (reference numeral 230B), and D3 (reference numeral 230C), each requiring a portion of the bandwidth provided by the distribution channel 224A.

Lemieux at col. 4, lines 23-31.

Lemieux does not disclose that devices D1-D3 are public telephones, and at most discloses that the devices terminate “at a user’s (or subscriber’s) home, office, business, or any other facility” the devices are not public telephones. In fact, by disclosing that the termination is at a “user’s (or subscriber’s)” property, Lemieux unequivocally teaches away from the device being a public telephone as claimed. Those of ordinary skill in the art would readily recognize at least one difference between a termination at property controlled by a user or subscriber, and a public telephone. Therefore, this anticipation rejection must fall.

The remaining claims depend directly or indirectly from one of independent claims 1, 10, or 16. All of the claims are therefore patentable.

CONCLUSION

The Appellants respectfully submit that the Examiner’s final rejection of claims 1-20 should be reversed.

Respectfully submitted,

Date

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